



DRAFT

**FAIRFAX COUNTY LEGISLATIVE PROGRAM
FOR THE
2006 VIRGINIA GENERAL ASSEMBLY**

**FAIRFAX COUNTY DRAFT LEGISLATIVE PROGRAM
2006 VIRGINIA GENERAL ASSEMBLY**

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COUNTY INITIATIVES

Housing

Condominium Conversions

Housing

Interest on Blight Abatement Tax
Liens

Human Rights

Sexual Orientation

Land Use

Affidavits

Land Use

Public Improvement Bonds

Personnel

Retirement Benefits

Public Safety

Brandishing a Machete

Public Safety

Teen Driving

Transportation

Blue Star Memorial Highway

Fairfax County DRAFT LEGISLATIVE INITIATIVES
2006 Virginia General Assembly

1. HOUSING -- CONDOMINIUM CONVERSIONS

Initiate legislation to require notification by the State Real Estate Board to the Chief Administrative Officer of each locality when an application for condominium conversion is filed with the Real Estate Board, to include the name of the applicant and the location of the property.

Initiate legislation to allow tenants, of the greater of one unit or up to five percent of the total number of units, to transfer their right to purchase their units to the local housing authority or other qualified non-profit entity during a condominium conversion, as may be determined by the County, with preference to be given to tenants who are elderly or disabled.

The Affordable Housing Task Force identified condominium conversions as a significant potential threat to Fairfax County's affordable rental housing stock. Under current law, during condominium conversions, the County has little leverage to preserve affordable housing or mitigate tenant displacement.

Often, the County first learns of a condominium conversion when the project is well under way or completed; residents have already been displaced without understanding their rights or considering their options. By receiving early notification of a conversion, the County will be able to work more effectively with developers to ensure that communication with the tenants is complete and accurate and that tenants receive the relocation benefits to which they may be entitled under the law. The County will be able to work directly with tenants to educate them about their rights and help them make sound alternate housing choices for their families. For those tenants ready for homeownership, the County may be able to help them exercise their right to purchase their units through homebuyer education, down payment and closing cost assistance, and other special financing.

Under certain conditions, tenants do have the exclusive right to purchase their units during the first 60 days of the 120-day formal notice period. In many cases, tenants are unable to exercise this right to purchase and are displaced. The elderly and disabled may be able to get lease extensions of up to three years, but the rents are not fixed at the prior rate.

Allowing residents to transfer their right to purchase to non-profit entities (including local housing authorities) will help to prevent the loss of affordable housing. The goal of this amendment is to give the FCRHA or qualified nonprofits actively engaged in producing and preserving affordable housing the opportunity to purchase the units with the intent that existing tenants may continue to live in their units. This would allow for a variety of creative responses, including rent-to-own opportunities for existing tenants, long-term rental as affordable, and special assistance for the elderly or those with disabilities.

THE FACTS:

- ❖ As many as 80% are displaced in condo conversions. (*Nat'l Assoc. of Realtors report*)
- ❖ 5,000 Washington area rental homes were converted in 2003; 14,500 were converted in 2004. (*The Washington Post*)
 - Assuming 80% displacement, as many as 11,600 Washington area households could have lost their rental homes in 2005.

**Fairfax County DRAFT LEGISLATIVE INITIATIVES
2006 Virginia General Assembly**

2. HOUSING -- INTEREST ON BLIGHT ABATEMENT TAX LIENS

Initiate legislation to amend current law to allow the County to collect interest, at the judgment rate, on the costs of blight abatement.

Currently, Virginia Code allows the County to charge the costs of blight abatement to the property owner by collecting these costs through the tax collection provisions. The current process is to bill the property owner for the blight abatement costs; if the owner fails to pay within a sixty to ninety day timeframe from the date the work was completed, a lien is filed in the County land records. The existing law does not allow the County to charge and collect interest on these unpaid liens, essentially making the liens interest-free loans to property owners. The Code should be amended to allow interest to be accrued at the judgment rate in addition to the overall costs of blight abatement.

3. HUMAN RIGHTS ORDINANCE -- SEXUAL ORIENTATION

Initiate/support legislation to permit the County, as an urban county executive form of government, to prohibit discrimination in the areas of housing, real estate transactions, employment, public accommodations, credit, and education on the basis of sexual orientation. Fairfax County already has taken actions pursuant to existing State enabling legislation in the preceding areas on the basis of race, color, religion, sex, pregnancy, child birth, and disability. (Updates and reaffirms previous initiative).

Presently, the Fairfax County Human Rights Ordinance does not prohibit discrimination against persons on the basis of sexual orientation. The Human Rights Commission in 2000 studied the need to add sexual orientation protections and issued a report to the Board of Supervisors documenting the need for the added protection and recommending that the Ordinance be amended to include sexual orientation as a protected class. Legislation has been killed in committee since 2001: SB 1147 (2001), HB 750 (2002), HB 880 (2004), and HB 2116 (2005) were all passed by indefinitely.

**Fairfax County DRAFT LEGISLATIVE INITIATIVES
2006 Virginia General Assembly**

4. LAND USE -- AFFIDAVITS

Initiate legislation to amend Virginia Code §15.2-852 pertaining to the urban county executive form of government to provide that the filing of an affidavit would not be required for land use applications where the Board of Supervisors is the “applicant” and the application property consists of more than ten parcels under different ownership; also, clarify that, in the case of an amendment to the zoning ordinance, the affidavit requirement applies only to amendments to the zoning map.

The Virginia Code requires that applicants for special exception, special permit, variance or rezoning shall submit, prior to public hearing, an affidavit that identifies, among other things, the names of the property owners and applicant and that discloses any business or financial relationship that they may have with members of the Board of Supervisors, Planning Commission, or Board of Zoning Appeals. The statute defines “business or financial relationship” to include gifts or donations in the 12 months before the public hearing on the case having an aggregate value of more than \$100.

The Virginia Code does not distinguish land use applications filed by private parties from land use applications initiated by motion of the Board of Supervisors. An exception to the affidavit requirement exists, however, for changes in zoning that constitute the “adoption of a comprehensive zoning plan or ordinance applicable throughout the county.” The proposed amendment would facilitate the Board of Supervisors’ ability to consider land use applications initiated in the public interest on its own motion.

**Fairfax County DRAFT LEGISLATIVE INITIATIVES
2006 Virginia General Assembly**

5. LAND USE -- PUBLIC IMPROVEMENT BONDS

Initiate legislation to allow Fairfax County to impose increased requirements on certain developers regarding: (i) the type of security that may be used to secure satisfactory completion of subdivision or site plan improvements; (ii) the percentage of estimated construction costs that the developer must provide to cover the County's administrative expenses, inflation, and potential damage; and (iii) the maximum percentage of the security that must be released prior to final completion of the required improvements. The increased requirements could be imposed on developers who have not met all previous land development obligations in accordance with all development agreements with the County in the seven years prior to the submission of a proposed subdivision or site plan.

Currently, State law allows a subdivider or developer to choose the type of security to be used to cover the cost of completion of improvements required to be constructed under the subdivision and site plan ordinances. In the case of a developer default where a corporate bond is the security for completion of the bonded improvements, the County more often than not has to sue the surety company in order to collect the remaining balance of the bonded amount, which rarely results in enough money for the County to complete construction. Consequently, County General Fund dollars have to be used to pay the cost of completion.

The proposal was developed jointly with representatives from the County and the building industry. Building industry representatives support this initiative provided it is limited to Fairfax County.

For developers who have defaulted within seven years before a new submission, the County may require that:

- ❖ The only security that may be used would be a certified check, cash escrow, or a letter of credit.
- ❖ A corporate surety bond could be prohibited.
- ❖ Such developers could be required to provide an allowance of up to fifty percent of the estimated construction costs.
- ❖ The County would be required to approve partial releases of the secured amount of up to eighty percent when a corresponding amount of work has been satisfactorily completed.

**Fairfax County DRAFT LEGISLATIVE INITIATIVES
2006 Virginia General Assembly**

6. PERSONNEL -- RETIREMENT BENEFITS

Initiate legislation to give Fairfax County Health Department employees hired prior to July 1, 1995, the option to transfer within County government and remain in the Virginia Retirement System.

Effective July 1, 1995, State employees in the Health Department were transferred from the State to the County service as the result of a County legislative initiative. All appointees to the Health Department prior to that date were considered County employees but were grandfathered in the Virginia Retirement System (VRS) as long as they remained employees of the Health Department. The proposed legislation would provide the grandfathered employees: 1) the ability to remain active members in VRS so long as they remain employed in any Fairfax County department, subject to certain provisions; 2) upon accrual of sufficient service credit for normal service retirement under VRS, the option to retire under VRS, even if they continue working for the County; 3) the further option, if they retire under VRS and continue working for the County, to join the appropriate County retirement system; and 4) the ability to qualify to retire under a County retirement system based upon the balance of years worked with the County. The legislation would be effective upon enactment.

7. PUBLIC SAFETY -- BRANDISHING A MACHETE

Initiate legislation making the brandishing of a machete a violation in the same way that brandishing a firearm is now a violation and making such brandishing a predicate criminal act.

The use of machetes as instruments of intimidation by gang members has increased in recent years. In Fairfax County, for example, several machete attacks resulting in malicious wounding have occurred over the past two years, and machetes have been listed in 40 police reports in connection with various gang-related and other suspicious incidents. These long, curved knives can inflict much more destructive wounds than those of ordinary knives, leaving life-long scars. The specter of such wounding adds a particular element of terror to such encounters.

In the hands of criminal street gangs, machetes have become a symbol of the violence to which they will resort to further their criminal activities. Such legislation would strengthen the legislation enacted by the General Assembly over the past few years to suppress and successfully prosecute criminal gang activity.

**Fairfax County DRAFT LEGISLATIVE INITIATIVES
2006 Virginia General Assembly**

8. PUBLIC SAFETY -- TEEN DRIVING

Initiate comprehensive youth highway safety legislation to reduce motor vehicle crashes which are the leading cause of death among 10 to 15 year olds nationwide. Last year 65 people lost their lives on County roads, and the number of those victims who were 21 years or younger was an astonishing 13 fatalities or 20 percent. The following initiatives, developed as a result of the Fairfax County Board of Supervisors Teen Driving Summit, are proposed.

- ***Amend current laws for violations of curfew and limits on underage passengers for drivers under the age of 18 by changing such secondary offenses to primary offenses. Secondary offenses require observation of a primary offense for a law enforcement officer to initiate enforcement action.***

Current Virginia law requires that a holder of a provisional driver's license under the age of 18 not operate a motor vehicle between midnight and four a.m., with certain exceptions. Another section limits a driver younger than 18 as to the number of passengers younger than 18 to be driven. Violations of these sections should be primary offenses; the incidence of fatal crashes for teen drivers is 5 to 6 times higher with two or more young passengers than when the driver is alone.

- ***Create a new requirement to ban use of wireless communication devices while operating a motor vehicle by drivers under the age of 18.***

The use of a cellular phone while operating a motor vehicle not only causes a physical distraction and diminishes physical capabilities, but also creates a cognitive distraction, thereby causing drivers to experience a decrease in reaction time. Novice young drivers are just learning how to operate a motor vehicle and need as few distractions as possible

- ***Change the current seat belt infraction from a secondary offense to a primary offense.***

Current Virginia law requires front seat occupants at least 16 years of age to wear safety belts while the motor vehicle is in motion on a public highway. The evidence of the value of seatbelts in preventing deaths in motor vehicle crashes suggests that violations of this section should be a primary offense. In addition, Virginia could receive additional grant funding under the Transportation Equity Act by enacting a primary seat belt law and increasing seat belt use.

- ***Review laws and success rates in Virginia and other states that have enacted a Graduated Driver's License (GDL) Program for possible additional legislation.***

Graduated Driver's Licensing is a three stage system that gives young novice drivers new privileges with each stage of the system as they gain more driving experience. The National Institutes of Health has found that GDL Programs have decreased the number of teenage deaths by 25 percent. At present, thirty-nine states have enacted GDL Programs.

Fairfax County DRAFT LEGISLATIVE INITIATIVES
2006 Virginia General Assembly

9. TRANSPORTATION -- BLUE STAR MEMORIAL HIGHWAY

Initiate legislation to designate Old Keene Mill Road in the Springfield area of Fairfax County as a Blue Star Memorial Highway.

A Blue Star Memorial Highway is intended to show respect and appreciation for the members of the Armed Forces of the United States. The Springfield Acres Garden Club has requested that Old Keene Mill Road in the Springfield area of Fairfax County be designated as a Blue Star Memorial Highway to honor the many military personnel, both retired and on active duty, who live in Springfield, and the Central Springfield Area Revitalization Committee has endorsed the request. General Assembly action is needed for this designation.

REGIONAL POSITIONS

BRAC

State Funding

Courts

Increased Compensation for State
Court Employees

Funding

Birmingham Green Assisted Living
Facility Capital Expansion

Local Government Authority

Immigration

Transportation

Funding

Transportation

Pedestrian Safety

Transportation

Photo Red Light

**Northern Virginia DRAFT REGIONAL LEGISLATIVE POSITIONS
2006 Virginia General Assembly**

1. BRAC -- STATE FUNDING

Support the inclusion of sufficient funds in the 2006-2008 biennium budget to:

- ***Support retention of the military research functions in the region, oppose efforts by any other state to seek their relocation, and promote State efforts to keep them in Virginia;***
- ***Assist in recovery from the significant economic impacts of the BRAC process; and***
- ***Ensure significant fiscal resources to address the enormous planning and transportation issues raised by the relocation of an estimated 21,000 defense workers to Ft. Belvoir and 3,000 defense workers in USMC Quantico.***

On May 13, 2005, the Department of Defense issued its recommendations to the Base Realignment and Closure Commission (BRAC). These recommendations include significant personnel transfers, which would result in vacating approximately 1.5 million square feet of leased space in Fairfax County, and the arrival of an estimated 21,000 new personnel at Ft. Belvoir. The recommendations were approved by BRAC on September 8, 2005, and accepted by the President on September 23, 2005.

The BRAC decision will have a significant impact on Fairfax County, particularly in the Ft. Belvoir area. One of the primary challenges will be dealing with an influx of new commuters, and the issues that will create for the transportation system. As a result, the Governor has created several BRAC working groups, tasked with making recommendations for dealing with the impacts of the BRAC decisions in areas such as transportation, housing and education, among others. Findings and recommendations will be reported to the Governor by December 1, 2005, for consideration in the upcoming 2006-2008 biennium budget. Fairfax County is represented on the Northern Virginia BRAC working group.

2. COURTS -- INCREASED COMPENSATION FOR STATE COURT EMPLOYEES

Support additional State funding to provide higher levels of compensation for magistrates, district court employees, probation officers/staff, and public defenders/staff.

Currently, the low State compensation and resultant high personnel turnover for these State positions jeopardizes the consistent provision of vital criminal justice and court-related services, particularly in highly competitive regions of the Commonwealth such as Northern Virginia. It is the State's responsibility to ensure that the base pay plans for these State positions are reviewed regularly, adjusted as needed, and fully funded on a sustained basis. Localities should not have to supplement the funding of State positions in order to ensure the adequate provision of State services and protections to the citizens of the Commonwealth.

Northern Virginia DRAFT REGIONAL LEGISLATIVE POSITIONS
2006 Virginia General Assembly

3. FUNDING – BIRMINGHAM GREEN ASSISTED LIVING FACILITY CAPITAL EXPANSION

Initiate a one-time State General Fund capital appropriation of \$1.75 million to support the expansion of the Birmingham Green Assisted Living Facility which provides long term care within the region for low-income Northern Virginians from the city of Alexandria and the counties of Fairfax, Prince William, Loudoun, and Fauquier. (Revises and updates previous position.)

The facility was originally constructed in 1927, and has been in need of renovation and expansion for a number of years. All assisted living beds at Birmingham Green are available to persons who qualify for Auxiliary Grant assistance. Plans are finalized for the new facility, and funding has been secured from the Housing and Urban Development (HUD) agency and the Virginia Department of Housing and Community Development (DHCD); local funding from the owner jurisdictions, totaling over \$1 million, is also committed. While one-time capital allocation of State general funds of \$250,000 was secured during the 2005 General Assembly Session, a \$2 million gap in capital financing had been identified for last year's General Assembly. In order to keep the federal funding now set aside for this project, the total capital funding package must be secured. A State budget amendment for \$1.75 million in one-time funding is necessary to completely close that gap and ensure the expansion of quality Assisted Living Facility beds specifically dedicated to low-income Virginians.

**Northern Virginia DRAFT REGIONAL LEGISLATIVE POSITIONS
2006 Virginia General Assembly**

4. LOCAL GOVERNMENT AUTHORITY -- IMMIGRATION

Support stricter federal action to improve the enforcement of federal immigration laws and policies by federal agencies. The Board opposes new federal or State action that would compromise its ability to deliver local government programs and services that benefit or protect the community as a whole. The Board further opposes state or federal legislation that would mandate local governments to enforce federal immigration laws, especially in the area of law enforcement.

Dealing with the issue of illegal immigration is a very complex matter; as a result of lax federal enforcement of immigration law, local governments are often faced with problems at the community level which must be addressed. Estimates by the Pew Hispanic Center and other researchers place the number of illegal immigrants in the United States in excess of 10 million. While many characterize these individuals as integral to the ongoing economic prosperity of the country, others complain that illegal immigrants make use of government resources that should go to citizens and legal immigrants. For example, a statute passed overwhelmingly by the 2005 General Assembly prohibits state or local governments from giving illegal immigrants certain public benefits, yet even that law provides for exceptions that allow public benefits to continue for some illegal immigrants, such as children. Local governments must be able to extend services to illegal immigrants that would also benefit the public at large (for example, treatment of communicable diseases), in order to protect the public's health, welfare, or safety.

Some local governments in Northern Virginia, for example, have recently funded day labor centers in order to deal with a local community problem. In these cases, the local governments are trying to protect the local community's public health and safety. The establishment of day labor centers and site management in these cases gives the day laborers a place to gather and wait for jobs where they are not blocking store or other business entrances. Local governments are best suited to deal with such local community problems.

Some state and federal officials have also proposed that local law enforcement officers should help enforce federal immigration laws. Local governments oppose this proposal. Illegal immigration is a federal problem and a federal crime that should be addressed by the federal government.

**Northern Virginia DRAFT REGIONAL LEGISLATIVE POSITIONS
2006 Virginia General Assembly**

5. TRANSPORTATION -- FUNDING

Support additional state transportation funding for highway, transit, bicycle and pedestrian improvements. (Updates and reaffirms previous position.)

Specifically, the Board, along with other Northern Virginia jurisdictions, asks the General Assembly to:

- ***Significantly increase transportation funding for all modes from a stable, reliable, and permanent source(s).***
- ***Meet the Commonwealth's statutory 95 percent share of transit operating and capital costs (net of fares and federal assistance). This would require approximately \$200 million annually in new funds for the limited transit projects and eligible operating costs included in CTB's six-year program.***
- ***Approve a dedicated funding source for the Washington Metropolitan Area Transit Authority.***

Northern Virginia believes that Virginia's transportation system is experiencing a major funding crisis that must be acted upon during the 2006 session of the General Assembly. According to the VTRANS 2025 report, "by 2025, capital and maintenance needs across all modes will exceed \$203 billion. Best estimates of available revenues are less than half that figure at \$95 billion. This is an under-investment of over \$108 billion." The findings in the VTRANS 2025 report are consistent with preceding transportation needs assessments. Unless the 2006 General Assembly approves increased revenues for transportation that are separate, reliable and permanent, Virginia will face a congestion and mobility crisis that will restrict economic growth and profoundly and negatively affect the quality of life of all residents.

The Washington, D.C., region is consistently listed as one of the worst areas in the country in terms of roadway congestion. Although Washington Metropolitan Area Transit Authority (WMATA) and other transit agencies assist in easing this congestion, they too are near capacity levels during peak periods. WMATA is the only major transit provider in the country without a significant dedicated revenue source. In December 2004, a Blue Ribbon Panel strongly recommended that a dedicated funding source be established to meet WMATA's unfunded needs. Subsequently, federal legislation was introduced that would provide \$1.5 billion for WMATA over ten years, if the region adopts a dedicated funding source(s) and provides an additional \$1.5 billion to match the federal funds.

The State also has failed to pay the 95 percent of transit costs that the General Assembly authorized. If new funding is not identified, the capital matching ratio for FY 2007 is projected to be less than 30 percent. The state is currently reimbursing only 48 percent of transit operating costs. These match ratios force localities to carry the remaining burden, primarily from property taxes. Northern Virginia strongly urges the state to aggressively fund public transit and to provide equity in fundraising for each transportation mode. Such equity would provide an additional \$200 million annually for public transit. This number reflects the amount of money needed to fully fund the state transit program to the 95 percent state share.

In addition to the transit costs borne by the localities, the Northern Virginia voters have authorized \$1.2 billion in General Obligation Bonds for transportation improvements. The debt service on these bonds is paid with real estate taxes. These bonds compete with those needed for schools, public safety, and other services and the need to moderate real estate taxes.

**Northern Virginia DRAFT REGIONAL LEGISLATIVE POSITIONS
2006 Virginia General Assembly**

5. TRANSPORTATION -- FUNDING (Cont.)

There is evidence that Northern Virginia residents are willing to pay more for transportation improvements. A recent scientific poll conducted for the Northern Virginia Transportation Authority showed that more than 85% of respondents were willing to pay more to expand transit service and reduce crowding on Metro and the Virginia Railway Express. When given three options that each raise the same amount of money, respondents chose a sales tax over an income tax and a gas tax as the preferred method of funding transportation improvements.

6. TRANSPORTATION -- PEDESTRIAN SAFETY

Support legislation that would require motorists to stop for pedestrians in marked crosswalks at unsignalized intersections on roads where the speed is 35 mph or less. Alternatively, Northern Virginia localities would support legislation that would grant authority to jurisdictions to require motorists to stop for pedestrians at unsignalized intersections on roads where the speed is 35 mph or less, selected for a higher level of enforcement and with proper signage. (Reaffirms previous position.)

Recent events throughout the region have highlighted a growing concern for the safety of pedestrians attempting to cross streets. Many Northern Virginia jurisdictions are exploring a variety of means to effectively provide for pedestrian safety while avoiding both the potential for serious vehicular accidents and the potential for creating a false sense of security for the pedestrians. For several years, Northern Virginia jurisdictions and agencies have sought legislation that would require drivers to stop for pedestrians in a crosswalk at unsignalized intersections where the speed limit is 35 miles per hour or lower. This legislation passed the Senate, but was not approved by the House of Delegates. The Virginia Transportation Research Council (VTRC) has agreed to update their 1995 study of pedestrian legislation to reflect the current situation and recommend changes to the Virginia Code to improve the pedestrian environment and reduce pedestrian injuries and fatalities.

7. TRANSPORTATION -- PHOTO RED LIGHT

Support legislation that would reinstate photo red authority for jurisdictions that previously had this authority. (Reaffirms previous position.)

In the mid 1990s, the General Assembly granted several jurisdictions, mostly in Northern Virginia, the authority to implement photo red programs. The authority for all of these programs expired on July 1, 2005. Jurisdictions that implemented photo red programs saw significant reductions in the number of vehicles running red lights at intersections where a photo red camera was installed. In addition, surveys conducted before and after the implementation of these programs show strong public support for them. In December 2004, the Virginia Transportation Research Council released a review of the six current photo red programs in Virginia. The report concluded that the programs are technically and operationally feasible and recommended their continuation.

***JOINT POSITIONS
FAIRFAX COUNTY BOARD OF
SUPERVISORS AND
SCHOOL BOARD***

Joint Education Funding Positions

**Fairfax County Board of Supervisors and School Board
DRAFT JOINT LEGISLATIVE POSITIONS
2006 Virginia General Assembly**

1. JOINT EDUCATION FUNDING POSITIONS

The Fairfax County School Board and the Fairfax County Board of Supervisors jointly support the following positions. (Updates and reaffirms previous position.)

- ***The Boards support continued General Assembly attention to State funding of public education through the Standards of Quality (SOQ) and other programs.***

Critical gaps remain between SOQ funding and actual costs. The Boards support full funding for the biennial rebenchmark which updates the SOQ funding formulas to reflect increases in fuel and health care costs, teacher salaries, etc. State funding for K-12 public education is needed especially in view of increasing student diversity, and the two mandated State and federal accountability programs: the Standards of Accreditation and the No Child Left Behind Act. The Boards oppose shifting resources from other education accounts, such as categorical and incentive programs and the Literary Fund, to fund the SOQ.

- ***The Boards support enhanced revenue capacity for localities to address pressing public education capital costs and other local needs.***

The Boards continue to support completing the equalization of taxing authority between cities and counties. Most counties now provide the same services as cities, with fewer options available for funding those services. The Boards support actions by policy-makers that produce extra funds or funding opportunities for localities. The Boards oppose any state-mandated restrictions on local property taxes, curtailment of local government authority to raise revenue, or expanded dependency of localities on revenue-sharing mechanisms controlled by the State.

- ***The Boards support flexibility and additional resources to carry out the federal mandates under the No Child Left Behind Act (NCLB) and the Individuals with Disabilities Education Act (IDEA).***

The Boards urge the federal government to grant flexibility to states such as Virginia, with a demonstrated record in the use of accountability systems for improving student achievement, to keep components of their existing state accountability plans intact in the plans they submit to implement the law. The federal government should live up to its commitment to provide adequate resources for NCLB implementation, as well as for the Individuals with Disabilities Education Act for special education students, to ensure that the financial burden of these mandates does not continue to fall to local governments.

- ***The Boards support funding for At Risk Youth/After School Programs/Anti-Gang Activities.***

The Boards support evidence-based prevention and intervention that engages and educates parents as well as youth to better address adolescent substance abuse, behavioral issues, and criminal gang involvement. The Boards support increased appropriations for the federal Safe and Drug Free Schools and Communities Program and the 21st Century Community Learning Centers Program. The latter program provides students with academic enrichment opportunities, community service opportunities, music, art, and sports in a safe environment when school is not in session. The Boards support continued cooperation between levels of government and across jurisdictions addressing the problems related to gang activity in the region.

COUNTY POSITIONS

Courts	Funding for Pretrial Services and Community Corrections Programs
Environment	Tree Preservation
Funding	Four for Life
Funding	Human Services
Funding	Jail Operations
Funding	Rehabilitative Services Incentive Funds
Funding	Virginia Land Conservation Fund
Funding	Water Quality Improvement Fund
Land Use	Adequate Public Facilities Ordinance
Land Use	Transferable Development Rights
Library	State Aid Formula Cap
Motor Vehicles	Mopeds, Pocket Bikes and Scooters
Procurement	Multiple Awards for Professional Services
Public Safety	24-Hour Lockout for Commercial Evictions
Public Safety	Access to Health Records
Public Safety	Dangerous Weapons in Public Facilities
Public Safety	Sex Offenders
Revenue Capacity and Core Local Needs	
Telecommunications/Communications Services	Tax Restructuring and Other Positions
Youth	Fairfax Partnership for Youth

**Fairfax County DRAFT LEGISLATIVE POSITIONS
2006 Virginia General Assembly**

1. COURTS -- FUNDING FOR PRETRIAL SERVICES AND COMMUNITY CORRECTIONS PROGRAMS

Support additional State funding to support the Pretrial Services Act and the Comprehensive Community Corrections Act grant programs. These programs benefit the community as well as pretrial defendants and sentenced offenders. They allow low-risk defendants awaiting trial and sentenced offenders to work, receive treatment, pay taxes, and in the case of offenders, to pay restitution and perform community service.

The Virginia Community Criminal Justice Association has identified a statewide need of approximately \$3.1 million over the current appropriation level to support pretrial and local community correction services. The need for additional funding is due in part to the increased use of these programs by the courts. The Association estimates the cost of community-based supervision of individual defendants at \$4.52 per day versus a statewide incarceration cost estimate of \$54.81 per day (FY 2003) and a Fairfax Adult Detention Center rate of approximately \$119 per day (FY 2004).

Success of these programs as measured by increased use by the courts:

- ❖ Pre-trial investigations have increased 85%.
- ❖ Average daily caseload for pretrial services has increased 283%.
- ❖ Average daily caseload for local probation services has increased 288%.

2. ENVIRONMENT -- TREE PRESERVATION

Support legislation endorsed by the Environmental Quality Advisory Council that would enable Northern Virginia jurisdictions to require the preservation of trees and woodlands when these exist on sites prior to development. (Reaffirms previous position.)

Recently adopted legislation requires localities to reduce tree canopy requirements or grant tree cover credit when developments include tree preservation. The proposed legislation would allow localities to require a certain amount of canopy be provided by preserving existing trees.

3. FUNDING -- FOUR FOR LIFE

Support the full annual return of that portion of Four-for-Life funds allocated to localities for emergency medical services, without any further diversion of such funds by the State. Such diversion has occurred since the 2002-2004 Biennium Budget; oppose any budget language which would enable the continuation of the diversion of the Four-for-Life funds by the State.

CHAIN OF EVENTS:

- ❖ Effective July 1, 2002, the motor vehicle registration surcharge used to support EMS was increased from \$2 (Two-for-Life) to \$4 per year (Four-for-Life).
- ❖ During the 2002-2004 Biennium Budget, the full \$2 increase was retained by the State for its General Fund and the local portion was not distributed to localities. This diversion was achieved by the transfer of 3.45 million to the general fund from the special fund.
- ❖ Legislation enacted by the 2004 General Assembly changed the allocation of the Four-for-Life Fund, which includes increasing the percentage of funds distributed back to localities from 25 percent to 26 percent.
- ❖ At present, the increase in revenue for the Four-for-Life Program has not been placed into the special fund for EMS purposes.
 - If all revenue in the Four-for-Life program had been placed in the special fund, localities collectively would have received roughly an additional total of \$1.8 million; Fairfax County would have received roughly \$825,800 (double the original amount).

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4. FUNDING -- HUMAN SERVICES *(Revises and updates previous positions.)*

Medicaid *(Revises and updates previous position.)*

Support revisions to Virginia's State Medicaid Plan that improve the State's position in leveraging the federal funds available through the Medicaid program to meet the fundamental health care needs of the State's most vulnerable citizens. Even as the overall federal Medicaid program is undergoing review, Virginia must: improve eligibility limits; increase payment rates for critical services; enhance options for community-based long term care services; and support the development of community-based services.

Mental Health, Mental Retardation, and Substance Abuse Services *(New)*

Support the transformation of Virginia's system of mental health, mental retardation and substance abuse services to better leverage State and federal funds and improve access to fundamental services in the community and, where needed, within State facilities. To achieve this objective, Virginia must: fund the further development of community-based services; ensure an adequate number of inpatient psychiatric beds in every region of the State [NOTE: This is a regional position]; and continue funding to develop services for MR Waiver Recipients.

Note: Positions are more fully explained in the issue paper "Critical Needs in Human Services," which is an addendum to this Program.

5. FUNDING -- JAIL OPERATIONS

Support additional State revenues to compensate localities at a level which is commensurate with the State's responsibility for local jail operations by taking the following actions. *(Updates and reaffirms previous position.)*

- **Adequately compensate local jails for state prisoners at a reimbursement rate that recognizes actual housing, food and medical costs.**
- **Meet the statutory requirement to transfer State-ready inmates (prisoners who have reached the 61st day after a court-ordered conviction) to State facilities in a timely manner.**
- **Appropriate funds to fulfill the Compensation Board's commitment to local jails; establish a Northern Virginia pay differential for salary reimbursements for State-approved positions, to reflect the highly competitive Northern Virginia job market.**
- **Recognize new State mandates, such as the recent revisions to DUI laws, through additional State funding to localities to assist with the increased local confinement costs.**

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6. FUNDING -- REHABILITATIVE SERVICES INCENTIVE FUNDS ("RSIF")

Support full restoration of the Rehabilitative Services Incentive Fund to the FY 2002 level of \$912,500 to address gaps in services, support innovative programs, and improve coordination in service delivery to improve the quality of life for persons with physical and/or sensory disabilities. Furthermore, oppose any legislation that calls for a decrease in such funds.

Note: Position is more fully explained in the issue paper "Critical Needs in Human Services," which is an addendum to this Program.

7. FUNDING -- VIRGINIA LAND CONSERVATION FUND

Support increased funding for the Virginia Land Conservation Fund (VLCF). (Updates and reaffirms previous position.)

The Virginia Land Conservation Fund was created to provide matching funds to protect land for conservation purposes. It leverages federal, local and private investment to protect farms, forests, open space, parks, natural areas and historic resources currently being lost at an alarming rate. The increased funding of \$2.5 million for each year of the 2004-2006 biennium budget and an additional \$10 million in 2005, while helpful, remains inadequate. The Northern Virginia Regional Commission and the VML have recommended minimum annual funding of \$50 million for the VLCF.

Studies have found:

- ❖ Nearly one-half million acres of prime Virginia farmland were lost between 1987 and 1997
- ❖ An average of 54,000 acres of forestland was lost each year between 1992 and 2000.

8. FUNDING -- WATER QUALITY IMPROVEMENT FUND

Support increased funding for the Water Quality Improvement Fund (WQIF) with consideration of a dedicated source of revenue. (Updates and reaffirms previous position.)

The Water Quality Improvement Fund makes matching grants to finance water quality improvements including restoration of the Chesapeake Bay and its tributaries. The Northern Virginia Regional Commission and VML have recommended a minimum annual State appropriation of \$30 million for the WQIF. The dedication of revenue for the WQIF should not be accomplished through imposition of a State fee or tax on local government services such as water, sewer, or solid waste.

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9. LAND USE -- ADEQUATE PUBLIC FACILITIES ORDINANCE

Support legislation to give localities authority to adopt an adequate public facilities ordinance. The legislation should: 1) permit localities to adopt provisions in their subdivision ordinances for deferring the approval of subdivision plats or site plans when it is determined that existing schools, roads, public safety, sewer or water facilities are inadequate to support the proposed development; 2) provide that an expressed purpose of zoning ordinances is to protect against an undue rate of development in relation to existing or available public facilities; and 3) not require localities to construct the necessary infrastructure within a timeframe established by the General Assembly. (Updates and reaffirms previous position.)

10. LAND USE -- TRANSFERABLE DEVELOPMENT RIGHTS

Support legislation that would authorize any local government, by ordinance, to establish a Transferable Development Rights (TDR) program with the caveat that disincentives for localities to enact TDR ordinances are not part of such legislation, such as a prohibition on the rezoning of property in the sending and receiving zones after the adoption of a transferable development rights program. (Updates and reaffirms previous position.)

Under a traditional TDR program, a developer would purchase some or all of the permitted development rights from parcels in a sending zone and would build the attributable density/intensity on land in a receiving zone. The development of the transferred density would be in addition to the development potential otherwise permitted on the receiving parcels.

11. LIBRARY -- STATE AID FORMULA CAP

Support legislation to permanently remove the population "cap" from the State's library funding formula. (Reaffirms previous Board position).

The current formula for distributing State funds to public libraries includes an allocation of \$.30 per resident for the first 600,000 residents and a \$.10 allocation for each resident above that number. Fairfax County's public library system is the only system adversely affected by this cap on the portion of funding determined by population. The cap currently results in a projected annual underfunding of \$80,000 of the Fairfax County library system. Similar legislation in 2004 and 2005 was not successful although the County received funding equal to the amount lost under the formula. The Joint Legislative Audit and Review Commission has recommended removal of this cap.

**Fairfax County DRAFT LEGISLATIVE POSITIONS
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12. MOTOR VEHICLES -- MOPEDS, POCKET BIKES AND SCOOTERS

Support legislation that would seek the registration and licensing of all mopeds and similar vehicles operated on public streets and the licensing of all operators of any such vehicles on public streets. Also, support legislation that will increase penalties for violating current law pertaining to such vehicles. Currently, a study is underway which will make recommendations for the upcoming General Assembly. (Updates and reaffirms previous position).

13. PROCUREMENT -- MULTIPLE AWARDS FOR PROFESSIONAL SERVICES

Support legislation to amend Virginia Code § 2.2-4301 3a to permit multiple awards for the procurement of professional services. The ability to award contracts to more than one bidder or offeror would increase administrative efficiency particularly for engineering and medical services. With one exception for basic ordering agreements, current law allows multiple awards only for goods and non-professional services.

14. PUBLIC SAFETY – 24-HOUR LOCKOUT FOR COMMERCIAL EVICTIONS

Support legislation to amend Virginia Code §55-237.1 to extend the “24-hour lockout” rule to businesses regarding both business and personal property. This proposal would allow landlords the option of evicting all property from within the premises to the right-of-way, or using a “24-hour lockout” provision to store the property. (Reaffirms previous position.)

15. PUBLIC SAFETY -- ACCESS TO HEALTH RECORDS

Support a joint study by the Joint Commission on Health Care and the Crime Commission to determine if the State health records privacy law is restrictive beyond the federal law, HIPAA, thus creating an impediment to law enforcement investigations. A study on this issue of balancing patient privacy with public safety is necessary to consider its impact on the residents of the Commonwealth. Such a study was directed by the 2004 General Assembly, but was postponed to an unspecified future time.

16. PUBLIC SAFETY -- DANGEROUS WEAPONS IN PUBLIC FACILITIES

Support legislation to allow the County to adopt an ordinance prohibiting the possession of dangerous weapons in or on any facility or property owned or leased by the County, with certain exceptions, including any person who has been issued a permit to carry a concealed handgun. Violation of such an ordinance would be punishable as a misdemeanor. It is particularly important that the County have such authority for any facility or property owned or leased by the County serving large populations of youth under the age of 18. Current law permits private property owners to decide whether or not to permit dangerous weapons on their property. (Updates and reaffirms previous position.)

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17. PUBLIC SAFETY -- SEX OFFENDERS

- ***Support legislation which would strengthen registration requirements for the Virginia Sex Offender and Crimes Against Minors Registry, including clarifying institutional responsibility for registering offenders and requiring offenders who legally change their names to reregister. In addition, support increased funding for personnel and resources to implement enhanced reporting requirements and an improved Registry.***

The State Crime Commission's Sex Offender Task Force is in the process of studying the adequacy of the Registry's current statutory provisions, its format, and the resources needed by the State Police to ensure a complete and accurate Registry. According to the Commission, as of May 20, 2005, there were 13,265 sex offenders registered in Virginia, of whom 10,919 were classified as "violent." The State's dependence on the offender to register and the limited resources of the State Police render the task of keeping the Registry accurate a difficult one.

- ***Support legislation preventing violent sex offenders from obtaining geriatric releases prior to completion of their sentences. Additionally, support legislative or budget actions which would provide resources for greater oversight of those sex offenders released into the community, including more intensive monitoring by probation and parole officers and improved and expanded notification of community members.***

For certain offenders, release into the community may not be a viable option, and restrictions on geriatric release provisions may be necessary to ensure that older offenders serve the entirety of their sentences. Civil commitment instead of release from incarceration may also be an option for particularly violent and dangerous offenders. Due to the high recidivism rates of sex offenders, those offenders who are released into the community should be carefully monitored by probation and parole officers. Such intensive supervision will require considerable investment of resources by the State.

- ***Other proposals under consideration by the Crime Commission's Sex Offender Task Force which merit consideration for the 2006 General Assembly include enhancing penalties for sexually violent predators most likely to recidivate; enhanced community containment programs for those released from correctional facilities; and improved screening for civil commitment.***

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18. REVENUE CAPACITY AND CORE LOCAL NEEDS *(Revises and updates previous position to incorporate VACo principles.)*

Despite significant State revenue changes enacted in the 2004 extended session, the local tax structure remains unchanged, is becoming antiquated, and lacks the diversification necessary to fund ever-growing local core services/needs. Fairfax County, along with member jurisdictions of VACo, remains willing and able to assist the State government in addressing compelling issues facing the Commonwealth. The County asks for collaborative solutions that recognize the unique strengths of each level of government. Actions are needed to:

Support funding of State and local shared responsibilities.

Fairfax County is prepared to work with State leaders to maintain and further the recent increases in SOQ funding. The State also must increase funding for biennial rebenchmarking of the SOQ; school construction and technology; implementation of the State Board of Education SOQ revisions, and federal/State educational accountability programs [including the Standards of Learning (SOL) and No Child Left Behind (NCLB) Act]. The State also must fund other shared responsibilities such as: clean-up of the Chesapeake Bay; local law enforcement (HB 599 program); jail operations; and human services needs.

Support diversification of local revenue base.

Some progress was made as a result of the 2005 session to assist the County in diversifying its tax base. Additional available revenue options which the County has historically supported that should be considered by the State are:

- Grant counties equal taxing authority with cities and towns, without a State-mandated dedication of those revenues;
- Reduce dependency on the property tax through a broadening of the local revenue base;
- Examine State or local tax bases that may be antiquated and may not reflect the changing economy or changes in technologies;
- Return a portion of State individual income tax as new revenue for unrestricted local use.

Preserve and not further restrict local authority. Currently, 90% of Fairfax County revenues are capped, limited, or controlled by the State. Such actions do not allow localities to structure the local tax base to reflect the local economy or the needs and aspirations of their residents.

- Do not cap the local real estate tax rate. Such a cap would further erode the local tax structure's flexibility and capacity and jeopardize a locality's bond rating;
- Do not decrease local revenues or opportunities for raising revenues at the local level.
- Do not add State taxes/surcharges on locally-provided services for State responsibilities;
- Do not expand the dependency of localities on revenue-sharing mechanisms controlled by the State. Such so-called "revenue neutral" solutions are short-sighted;
- Do not encroach upon local authority or pursue a "Dillon Rule" mentality that skews local accountability and hampers the efforts of local governments to provide for constituent needs in the most cost effective and efficient manner.

Fully fund the costs of mandates placed on local governments.

A true partnership between State and local governments entails a fair and adequate sharing of State revenues. The state has an obligation to fully fund the costs of mandates placed on local governments. Honoring this obligation becomes even more critical when the state requires that local governments provide services in a prescriptive manner with little flexibility.

**Fairfax County DRAFT LEGISLATIVE POSITIONS
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**19. TELECOMMUNICATIONS/COMMUNICATIONS SERVICES -- TAX
RESTRUCTURING AND OTHER POSITIONS** *(Revises and updates previous position to reflect proposed State tax reform legislation and newly proposed federal legislation.)*

In response to the telecommunications and other industries' proposed changes to the local tax structure, Fairfax County opposes any reduction or diminution of local government taxing authority by the State, including that for telecommunications.

Any changes which are contemplated as part of any taxing or regulatory "reform" package should adhere to the following principles and positions:

- should be revenue neutral to individual localities (i.e., should result in maintaining the current level of telecommunications tax revenue to individual localities) and should anticipate the "future growth" and evolution of telecommunications and other communications services and technologies and broaden the tax base to balance any rate reduction of existing fees and taxes; this should include services not presently taxed;
- should include a reconsideration of current state-prescribed tax policies and tax preferences that do not reflect changes in the regulation and the competitiveness of various communications' industries or technologies that provide functionally equivalent services;
- should require providers of communications services annually to report uniform verifiable data that will permit accurate collection and distribution of the revenues from the proposed communications sales tax. The tax collection function must also retain a verifiable audit requirement;
- should authorize local taxation of all voice to voice communication, by current or future technological means, notwithstanding lack of physical presence ("nexus") of the provider in taxing jurisdiction;
- should maintain the tax as a local tax; however, if local taxing authority is eliminated, it is especially critical that any proposal be considered within the context of an overall tax reform package which addresses state and local authority;
- should not impact local regulatory authority directly or indirectly and should recognize the cable franchise fee as the fee paid to a locality for the for-profit cable operator's use of public land and rights-of-way; should not classify this franchise fee as a telecommunications tax;
- should allow a time of transition for adjustment to any agreed-upon communications tax reform, where appropriate;
- should increase the proposed E 911 rates to: (a) provide adequate funding for local public safety answering point (PSAP) expenditures, including critical communications equipment and personnel to address homeland security needs, (b) to stabilize the Wireless E 911 fund; and (c) ensure that the migration of traditional wireline telephone services to Internet Protocol-based network systems will not preempt or preclude local governments' E 911 taxing authority.

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Fairfax County also supports the following related telecommunications positions:

- Oppose any preemption or circumvention of local governments' historical control over land use decisions and oppose any attempt to eliminate local governments' rights to charge, on a non-discriminatory basis, fair and reasonable compensation for use of public property (Reaffirms previous position.)
- Oppose any reduction or diminution of local government authority to: address consumer needs; regulate consumer services; and negotiate and enforce cable franchises that include provisions such as redlining prohibitions, franchise fees, public, educational, and governmental channels and financial support, customer service provisions, and technical and construction standards.
- Specifically support restricting the Virginia Department of Transportation's (VDOT's) ability to allow the construction of commercial mobile and land-based telecommunications facilities (e.g., monopoles, towers, and related structures) without prior approval of the affected locality's land-use and/or zoning authority. (Reaffirms previous position.)
- Oppose any reduction, preemption, or circumvention of VDOT or the County's authority to manage and oversee highway rights-of-way or the County's authority to manage its property. (Reaffirms previous position.)

20. YOUTH -- FAIRFAX PARTNERSHIP FOR YOUTH

Seek State and federal support for the Partnership and other County initiatives to help stem the growth of gangs in Fairfax County. Support legislation to require regular statewide application of a comprehensive youth risk behavior survey in sufficient numbers for local sub-unit analysis. (Updates and reaffirms previous position.)

Current Programs and Services

- ❖ The Fairfax Mentoring Partnership, which serves to train and prepare individuals to be youth mentors;
- ❖ The Fairfax County After-School Network, which supports and facilitates the after-school program for middle school youth, thus providing youth with adult supervision and healthy alternatives to gang activity;
- ❖ The Support on Suspension program, which provides students who have been suspended with a place to go during the school day that offers adult supervision, homework, and tutoring. Two sites are operating this school year: Vienna and Reston. The Partnership plans to open sites in each of the school system's pyramids.